

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 UNITED STATES OF AMERICA,

7 Plaintiff,

Case No. 2:13-CR-0234-KJD-VCF

ORDER

8 v.

9 HERBERTO PORRAS,

10 Defendant.

11 Presently before the Court is the United States' Notice of Non-opposition to Probation
12 Officer's Recommendation (#30). Defendant's probation officer has recommended termination
13 of supervised release and the Government does not oppose termination.

14 A district court enjoys "broad discretion" when, after it takes into account the statutorily
15 required factors, it discharges a defendant's supervised release. United States v. Jeanes, 150
16 F.3d 483, 484 (5th Cir. 1998). The defendant, however, bears the burden of demonstrating that
17 early termination of his supervised release is justified. See United States v. Weber, 451 F.3d 552,
18 559 n. 9 (9th Cir. 2006).

19 Title 18 U.S.C. § 3583(e) states:(e) Modification of conditions or revocation. The court
20 may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D),
21 (a)(4), (a)(5), (a)(6), and (a)(7):

22 (1) terminate a term of supervised release and discharge the
23 defendant released at any time after the expiration of one year of
24 supervised release, pursuant to the provisions of the Federal Rules
25 of Criminal Procedure relating to the modification of probation, if it
is satisfied that such action is warranted by the conduct of the
defendant released and the interests of justice[.]


26 The Court has considered the following factors under 18 U.S.C. §§ 3553(a): (1) the
27 nature and circumstances of the offense and the history and characteristics of the defendant; (2)
28 deterrence; (3) protection of the public; (4) the need to provide the defendant with educational,

1 vocational training, medical care or other rehabilitation; (5) the sentence and sentencing range
2 established for the category of defendant; (6) any pertinent policy statement by the Sentencing
3 Commission; (7) the need to avoid unwarranted sentence disparities among defendants with
4 similar records who have been found guilty of similar conduct; and (8) the need to provide
5 restitution to any victims of the offense. See 18 U.S.C. §§ 3553(a)(1), (a)(2)(B), (a)(2)(C),
6 (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7).

7 Defendant was originally sentenced to fifty-seven (57) months of custody on a bank
8 robbery conviction. He commenced a thirty-six (36) month term of supervised release on July
9 26, 2017. Defendant has received extensive treatment for the substance abuse problem which led
10 to his underlying conviction. He has been drug tested regularly and shown that he can maintain
11 his sobriety. He has had no negative interactions with law enforcement while on supervised
12 release. Defendant has maintained stable employment and a stable residence. Therefore, having
13 considered the statutory and advisory factors promulgated by the Judicial Conference, the Court
14 finds the termination of supervision is warranted by conduct of Defendant and the interests of
15 justice.

16 Accordingly, IT IS HEREBY ORDERED that Defendant's term of supervised release is
17 **TERMINATED immediately.**

18 Dated this 14th day of March, 2019.

19
20 
21 Kent J. Dawson
22 United States District Judge
23
24
25
26
27
28